

## **Assembly Bill No. 2158**

### **CHAPTER 91**

An act to amend and repeal Section 307 of the Corporations Code, relating to corporations.

[Approved by Governor July 15, 2010. Filed with  
Secretary of State July 15, 2010.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2158, Hagman. Corporations.

Existing law, the General Corporation Law, provides that an action required or permitted to be taken by the board of a corporation may be taken without a meeting if all members of the board consent in writing to that action. Existing law, until January 1, 2011, provides that "all members of the board" includes an "interested director" or a "common director" who abstains in writing from providing consent if specified disclosures have been made to certain directors, the disclosures are included in the written consent, and these directors approve the action by a specified vote.

This bill would extend the operation of that provision indefinitely.

*The people of the State of California do enact as follows:*

**SECTION 1.** Section 307 of the Corporations Code, as amended by Section 1 of Chapter 102 of the Statutes of 2005, is amended to read:

307. (a) Unless otherwise provided in the articles or, subject to paragraph (5) of subdivision (a) of Section 204, in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or by electronic transmission by the corporation (Section 20). The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who provides a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof in writing, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals

shall be filed with the corporate records or made a part of the minutes of the meeting.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or electronic transmission by and to the corporation (Sections 20 and 21). Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through electronic transmission by and to the corporation (other than conference telephone and electronic video screen communication), pursuant to this subdivision constitutes presence in person at that meeting if both of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(7) A majority of the authorized number of directors constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-third the authorized number of directors or less than two, whichever is larger, unless the authorized number of directors is one, in which case one director constitutes a quorum.

(8) An act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board, subject to the provisions of Section 310 and subdivision (e) of Section 317. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action and if the number of members of the board serving at the time constitutes a quorum. The written consent or consents shall be filed with the minutes of the proceedings of the board. For purposes of this subdivision only, “all members of the board” shall include an “interested director” as described in subdivision (a) of Section 310 or a “common director” as described in subdivision (b) of Section 310

who abstains in writing from providing consent, where the disclosures required by Section 310 have been made to the noninterested or noncommon directors, as applicable, prior to their execution of the written consent or consents, the specified disclosures are conspicuously included in the written consent or consents executed by the noninterested or noncommon directors, and the noninterested or noncommon directors, as applicable, approve the action by a vote that is sufficient without counting the votes of the interested or common directors. If written consent is provided by the directors in accordance with the immediately preceding sentence and the disclosures made regarding the action that is the subject of the consent do not comply with the requirements of Section 310, the action that is the subject of the consent shall be deemed approved, but in any suit brought to challenge the action, the party asserting the validity of the action shall have the burden of proof in establishing that the action was just and reasonable to the corporation at the time it was approved.

(c) This section applies also to committees of the board and incorporators and action by those committees and incorporators, *mutatis mutandis*.

SEC. 2. Section 307 of the Corporations Code, as added by Section 2 of Chapter 102 of the Statutes of 2005, is repealed.